

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 22-CR-00179-CVE

SOLEDAD PEREZCHICA,

Defendant.

Motion of the United States for a Preliminary Order of Forfeiture

The United States of America, by undersigned counsel, requests the entry of a Preliminary Order of Forfeiture of certain property for the reasons set forth below.

On August 4, 2022, Defendant Soledad Perezchica pled guilty to Counts One through Four of the Information (Dkt. # 38). Dkt. # 42. Pursuant to the Indictment (Dkt. # 17) and the Information, the United States provided notice to Perezchica that, upon conviction and pursuant to 21 U.S.C. § 853, she would forfeit to the United States any property constituting, or derived from, or traceable to, the proceeds obtained, directly or indirectly, as a result of such violations, any firearm and ammunition involved in or used in the knowing commission of such offenses, and any property, real or personal, that was used or intended to be used to commit or to facilitate the violation of federal law, including:

CURRENCY

1. Approximately \$3,433.00 in United States currency; and

REAL PROPERTY

2. All that lot and parcel of land, together with all buildings, appurtenances, improvements, fixtures, attachments and easements thereon, and all rights appertaining thereto, located at 1918 E. Marshall Place N, Tulsa, Tulsa County, Oklahoma 74110, more particularly described as Lot 9, Block 4, Section 31, Township 20, Range 13, BERRY-HART ADDN., Tulsa, Tulsa County, Oklahoma.

(Dkt. # 38, at 6-7).

The factual basis of defendant's petition to enter plea of guilty stated, in part, that:

On May 4, 2022, in Tulsa Oklahoma, which is in the Northern District of Oklahoma, I attempted to possess with the intent to distribute 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine. I, also, possessed with intent to distribute 50 grams or more of a mixture and substance containing a detectable amount of methamphetamine. Additionally, I possessed with the intent to distribute a quantity of fentanyl. On that same date I knowingly used and maintained a place located at 1918 East Marshall Place, Tulsa, Oklahoma, for the purpose of possessing with the intent to distribute methamphetamine and fentanyl. I know it is unlawful to possess and/or distribute methamphetamine and/or fentanyl and to maintain a place for that purpose.

(Dkt. # 46, at 2).

The language of the forfeiture statutes reflects the mandatory nature of forfeiture, once the factual predicates have been met. Title 21, United States Code, Section 853(a) states that any proceeds derived from the charged violation and any facilitating property shall be subject to forfeiture. The Supreme Court noted that "Congress could not have chosen stronger words to express its intent that forfeiture be mandatory in cases where the statute applied." *United States v. Monsanto*, 491 U.S.

600, 607 (1989). *See also United States v. McGinty*, 610 F.3d 1242, 1245-46 (10th Cir. 2010) (applying *Monsanto*).

On August 17, 2022, the United States filed a *Lis Pendens* in Tulsa County, State of Oklahoma, document number 2022084303.

Upon the issuance of a preliminary order of forfeiture, the United States will publish notice of the forfeiture and of its intent to dispose of the property in such a manner as the Attorney General may direct. 21 U.S.C. § 853(n) and Fed. R. Crim P. Rule 32.2(b)(6). The notice will state that any person, other than the defendant, having or claiming a legal interest in the property must file a petition with the Court and serve a copy on Reagan V. Reininger, Assistant United States Attorney, within thirty (30) days of the final date of publication of notice or within thirty (30) days of receipt of actual notice, whichever is earlier. This notice will state that the petition shall: (a) be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property; (b) be signed by the petitioner under penalty of perjury; (c) set forth the nature and extent of the petitioner's right, title, or interest in the property; and (d) set forth any additional facts supporting the petitioner's claim and the relief sought. Additionally, the United States will send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in an ancillary proceeding.

The real property has not yet been seized, but is located within this district and the jurisdiction of the Court. Upon the issuance of a preliminary order of forfeiture, the United States will:

- a. post notice of this action and a copy of the preliminary order on the real property; and
- b. serve notice of the preliminary order on the real property owner, and any other person or entity who may claim an interest in the real property.

If a third-party petition to the currency is not timely filed, the Preliminary Order of Forfeiture becomes final, and the United States shall have clear title to the property for disposition according to law. Fed. R. Crim. P. 32.2(c)(2).

If a third-party petition to the real property is not timely filed, the United States will move for a final order of forfeiture of the real property. Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n)(7).

The United States respectfully requests that the Court enter a preliminary order of forfeiture of the specified property.

Respectfully submitted,

CLINTON J. JOHNSON
UNITED STATES ATTORNEY

/s/ Reagan V. Reininger

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Certificate of Service

I hereby certify that on August 17, 2022, the foregoing document was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to counsel of record.

/s/ Mari-Jean Ogle

MARI-JEAN OGLE, Paralegal